



Rep. Joseph M. Lyons

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1 AMENDMENT TO HOUSE BILL 6113

2 AMENDMENT NO. _____. Amend House Bill 6113 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Foreclosed Home Receiver License Act.

6 Section 5. Purpose. The intent of the General Assembly in
7 enacting this Act is to evaluate the competency of persons,
8 including any entity, engaged in the foreclosed home receiver
9 business and to regulate and license those persons engaged in
10 this business for the protection of the public.

11 Section 10. Definitions. In this Act:

12 "Bank" means any person doing a banking business whether
13 subject to the laws of this State or any other jurisdiction.

14 "Department" means the Department of Financial and
15 Professional Regulation.

1 "Home" means real property that is used or intended to be
2 used as the principal place of residence of one or more
3 individuals.

4 "Foreclosed home receiver" means any person who acts as a
5 receiver of a home foreclosed on by a bank or trust or any
6 person to whom a receiver delegates managerial functions
7 concerning a home foreclosed on by a bank or trust.

8 "Licensee" means a foreclosed home receiver licensed under
9 this Act.

10 "Person" means an individual, corporation, limited
11 liability company, partnership, joint venture, trust, estate,
12 or unincorporated association.

13 "Secretary" means the Secretary of Financial and
14 Professional Regulation.

15 "Trust" means any trust company or any other corporation
16 qualified to act as a fiduciary in this State.

17 Section 15. Exemptions. A full or part-time employee of a
18 bank or trust who acts as a receiver of homes foreclosed on by
19 that bank or trust shall be exempt from licensure under this
20 Act, but must comply with Section 23 of this Act.

21 Section 20. Unlicensed practice; civil penalty.

22 (a) Any person who practices, offers to practice, attempts
23 to practice, or holds himself or herself out to practice as a
24 foreclosed home receiver without being licensed under this Act

1 shall, in addition to any other penalty provided by law, pay a
2 civil penalty to the Department in an amount not to exceed
3 \$10,000 for each offense as determined by the Department. The
4 civil penalty shall be assessed by the Department after a
5 hearing is held in accordance with the provisions set forth in
6 this Act regarding the provision of a hearing for the
7 discipline of a licensee.

8 (b) Any licensee under this Act who delegates managerial
9 functions related to the foreclosed home to a person who is not
10 licensed under this Act shall, in addition to any other penalty
11 provided by law, pay a civil penalty to the Department in an
12 amount not to exceed \$10,000 for each offense as determined by
13 the Department. The civil penalty shall be assessed by the
14 Department after a hearing is held in accordance with the
15 provisions set forth in this Act regarding the provision of a
16 hearing for the discipline of a licensee.

17 (c) The Department has the authority and power to
18 investigate any and all unlicensed activities.

19 (d) The civil penalty imposed under this Section must be
20 paid within 60 days after the effective date of the order
21 imposing the civil penalty. The order shall constitute a
22 judgment and may be filed and execution had thereon in the same
23 manner as any judgment from any court of record.

24 Section 23. Personal property requirements; public
25 posting.

1 (a) If a foreclosed home receiver takes possession of a
2 foreclosed home, then the foreclosed home receiver shall hold
3 onto and preserve all remaining personal property of the
4 mortgagor or former occupant for at least 30 days or until the
5 mortgagor or occupant releases his or her claim to his or her
6 property in writing, whichever is sooner. The Department may by
7 rule afford exceptions to the requirements of this subsection
8 (a) for perishable items, such as food, or other items that the
9 Department determines may pose a health risk to the public or
10 may risk damage to other personal property or the home itself.

11 (b) The foreclosed home receiver may keep the remaining
12 personal property in the home or store the personal property at
13 another location which shall be reasonably accessible to the
14 public. A mortgagor or former occupant may reclaim his or her
15 personal property free of charge at this location.

16 (c) Upon possession of the foreclosed home, the foreclosed
17 home receiver shall make a public posting at the entrance of
18 the home that notifies the mortgagor or any occupant of the
19 following:

20 (1) The contact information of the receiver, including
21 phone number and address.

22 (2) The full name of the specific individual who is
23 responsible for preserving his or her personal property and
24 the location at which the personal property is stored and
25 may be reclaimed by the mortgagor or occupant, free of
26 charge.

1 (3) The phone number of the Consumer Fraud Hotline of
2 the Illinois Attorney General.

3 The public posting shall include the following language in
4 12-point boldface capitalized type:

5 THIS HOME HAS BEEN FORECLOSED.

6 THE PERSONAL PROPERTY WITHIN THE HOME MAY BE REDEEMED
7 WITHIN 30 DAYS OF THIS POSTING.

8 DO NOT ENTER THIS HOME - VIOLATORS ARE SUBJECT TO
9 ARREST FOR CRIMINAL TRESPASS.

10 ARRANGEMENTS TO REDEEM THE PERSONAL PROPERTY INSIDE
11 THE HOME MAY BE MADE BY CONTACTING:

12 The requirements of this subsection (c) are in addition to
13 any other provision of State law related to the public posting
14 of information that applies to a foreclosed home receiver.

15 Section 25. Powers and duties of the Department.

16 (a) The Department shall exercise the powers and duties
17 prescribed by the Civil Administrative Code of Illinois for the
18 administration of licensing Acts and shall exercise the powers
19 and duties vested in it by this Act.

20 (b) The Department shall adopt rules necessary for the
21 administration and enforcement of this Act, including rules
22 concerning the standards and criteria for licensure, payment of
23 applicable fees, and hearings.

24 (c) The Department must prescribe forms required for the

1 administration of this Act.

2 Section 35. Licensure requirements.

3 (a) Every person applying to the Department for licensure
4 must do so in writing on forms prescribed by the Department and
5 pay the required nonrefundable fee. The application shall
6 include without limitation all of the following information:

7 (1) The name, principal place of business, address, and
8 telephone number of the applicant.

9 (2) Verification satisfactory to the Department that
10 the applicant is at least 18 years of age.

11 (3) Verification satisfactory to the Department that
12 the applicant does not have a criminal record.

13 (b) The Department may establish further requirements for
14 registration by rule.

15 Section 40. Current address. Every licensee under this Act
16 must maintain a current address with the Department. It shall
17 be the responsibility of the licensee to notify the Department
18 in writing of any change of address.

19 Section 45. Renewal; restoration; military service.

20 (a) The expiration date and renewal period for each license
21 issued under this Act shall be set by the Department by rule.

22 (b) Any person who has permitted his or her license to
23 expire may have his or her license restored by applying to the

1 Department, filing proof acceptable to the Department of his or
2 her fitness to have the license restored, which may include
3 sworn evidence certifying to active practice in another
4 jurisdiction satisfactory to the Department, and paying the
5 required restoration fee. If the person has not maintained an
6 active practice in another jurisdiction satisfactory to the
7 Department, then the Department shall determine, by an
8 evaluation program established by rule, the person's fitness to
9 resume active status and may require the successful completion
10 of an examination.

11 (c) Any person whose license has expired while he or she
12 has been engaged (i) in federal service on active duty with the
13 Armed Forces of the United States or the State Militia called
14 into service or training or (ii) in training or education under
15 the supervision of the United States preliminary to induction
16 into the military service, may have his or her license renewed
17 or restored without paying any lapsed renewal fees if, within 2
18 years after termination of service, training, or education,
19 other than by dishonorable discharge, he or she furnishes the
20 Department with satisfactory evidence to the effect that he or
21 she has been so engaged and that the service, training, or
22 education has been so terminated.

23 Section 50. Inactive status.

24 (a) Any person who notifies the Department in writing on
25 forms prescribed by the Department may elect to place his or

1 her license on inactive status and shall be excused from
2 payment of renewal fees until he or she notifies the Department
3 in writing of his or her desire to resume active status.

4 (b) Any person whose license has been expired for more than
5 3 years may have his or her certificate restored by making
6 application to the Department and filing proof acceptable to
7 the Department of his or her fitness to have his or her license
8 restored, including evidence certifying to active practice in
9 another jurisdiction, and by paying the required restoration
10 fee.

11 (c) Any licensee whose license is on inactive status, has
12 been suspended or revoked, or has expired may not represent
13 himself or herself to be a licensed foreclosed home receiver or
14 use the title "licensed foreclosed home receiver".

15 Section 55. Fees; disposition of funds.

16 (a) The Department shall establish by rule a schedule of
17 fees for the administration and maintenance of this Act. Such
18 fees shall be nonrefundable.

19 (b) All fees and fines collected pursuant to this Act shall
20 be deposited in the General Professions Dedicated Fund. All
21 moneys deposited into the Fund may be used for the expenses of
22 the Department in the administration of this Act.

23 Section 60. Roster. The Department shall maintain a roster
24 of the names and addresses of all licensees under this Act.

1 This roster shall be made available upon written request and
2 payment of the required fee.

3 Section 65. Advertising. Any person licensed under this Act
4 may advertise the availability of professional services in the
5 public media or on the premises where such professional
6 services are rendered, provided that such advertising is
7 truthful and not misleading.

8 Section 70. Injunction; criminal penalty; cease and desist
9 order.

10 (a) If any person violates the provisions of this Act, the
11 Secretary may, in the name of the People of the State of
12 Illinois and through the Attorney General or the State's
13 Attorney of any county in which the action is brought, petition
14 for an order enjoining such violation and for an order
15 enforcing compliance with this Act. Upon the filing of a
16 verified petition in court, the court may issue a temporary
17 restraining order, without notice or bond, and may
18 preliminarily and permanently enjoin such violation. If it is
19 established that such person has violated or is violating the
20 injunction, the Court may punish the offender for contempt of
21 court. Proceedings under this Section shall be in addition to,
22 and not in lieu of, all other remedies and penalties provided
23 by this Act.

24 (b) If any person holds himself or herself out as a

1 "licensed foreclosed home receiver" without being licensed
2 under the provisions of this Act, then any interested party or
3 person injured thereby may, in addition to the Secretary,
4 petition for relief as provided in subsection (a) of this
5 Section.

6 (c) Whoever holds himself or herself out as a "licensed
7 foreclosed home receiver" in this State without being licensed
8 for that purpose is guilty of a Class A misdemeanor, and for
9 each subsequent conviction, is guilty of a Class 4 felony.

10 (d) Whenever, in the opinion of the Department, a person
11 violates any provision of this Act, the Department may issue a
12 rule to show cause why an order to cease and desist should not
13 be entered against that person. The rule shall clearly set
14 forth the grounds relied upon by the Department and shall allow
15 the person at least 7 days after the date of the rule to file an
16 answer that is satisfactory to the Department. Failure to
17 answer to the satisfaction of the Department shall cause an
18 order to cease and desist to be issued.

19 Section 75. Disciplinary grounds.

20 (a) The Department may refuse to issue or renew, or may
21 revoke, suspend, place on probation, reprimand, or take other
22 disciplinary action as the Department considers appropriate,
23 including the issuance of fines not to exceed \$10,000 for each
24 violation, with regard to any license for any one or more of
25 the following causes:

1 (1) Violation of this Act or any rule adopted under
2 this Act.

3 (2) Conviction of any crime under the laws of any U.S.
4 jurisdiction that is a felony or a misdemeanor an essential
5 element of which is dishonesty or that directly relates to
6 the practice of the profession.

7 (3) Making any misrepresentation for the purpose of
8 obtaining a license.

9 (4) Professional incompetence or gross negligence in
10 the practice of building contracting.

11 (5) Gross malpractice, prima facie evidence of which
12 may be a conviction or judgment of malpractice in any court
13 of competent jurisdiction.

14 (6) Aiding or assisting another person in violating any
15 provision of this Act or any rule adopted under this Act.

16 (7) Failing, within 60 days, to provide information in
17 response to a written request made by the Department that
18 has been sent by certified mail to the licensee's last
19 known address.

20 (8) Engaging in dishonorable, unethical, or
21 unprofessional conduct of a character likely to deceive,
22 defraud, or harm the public.

23 (9) Habitual or excessive use of or addiction to
24 alcohol, narcotics, stimulants, or any other chemical
25 agent or drug that results in the inability to practice
26 with reasonable judgment, skill, or safety.

1 (10) Discipline by another U.S. jurisdiction or
2 foreign nation, if at least one of the grounds for the
3 discipline is the same or substantially equivalent to those
4 set forth in this Section.

5 (11) Directly or indirectly giving to or receiving from
6 any person, firm, corporation, partnership, or association
7 any fee, commission, rebate, or other form of compensation
8 for any professional service not actually rendered.

9 (12) A finding by the Department that a licensee, after
10 having his or her license placed on probationary status,
11 has violated the terms of probation.

12 (13) Conviction by any court of competent
13 jurisdiction, either within or without this State, of any
14 violation of any law governing the practice of building
15 contracting if the Department determines, after
16 investigation, that such person has not been sufficiently
17 rehabilitated to warrant the public trust.

18 (14) A finding that registration has been applied for
19 or obtained by fraudulent means.

20 (15) Practicing, attempting to practice, or
21 advertising under a name other than the full name as shown
22 on the license or any other legally authorized name.

23 (16) Gross and willful overcharging for professional
24 services, including filing false statements for collection
25 of fees or moneys for which services are not rendered.

26 (17) Failure to file a return, to pay the tax, penalty,

1 or interest shown in a filed return, or to pay any final
2 assessment of tax, penalty, or interest as required by any
3 tax Act administered by the Department of Revenue, until
4 such time as the requirements of the tax Act are satisfied
5 in accordance with subsection (g) of Section 15 of the
6 Department of Professional Regulation Law of the Civil
7 Administrative Code of Illinois (20 ILCS 2105/2105-15).

8 (18) Failure to continue to meet the requirements of
9 this Act.

10 (19) Material misstatement in furnishing information
11 to the Department or to any other State agency.

12 (20) Advertising in any manner that is false,
13 misleading, or deceptive.

14 (b) In enforcing this Section, the Department, upon a
15 showing of a possible violation, may order a licensee or
16 applicant to submit to a mental or physical examination, or
17 both, at the expense of the Department. The Department may
18 order the examining physician to present testimony concerning
19 his or her examination of the licensee or applicant. No
20 information shall be excluded by reason of any common law or
21 statutory privilege relating to communications between the
22 licensee or applicant and the examining physician. The
23 examining physicians shall be specifically designated by the
24 Department. The licensee or applicant may have, at his or her
25 own expense, another physician of his or her choice present
26 during all aspects of the examination. Failure of a licensee or

1 applicant to submit to any such examination when directed,
2 without reasonable cause as defined by rule, shall be grounds
3 for either the immediate suspension of his or her license or
4 immediate denial of his or her application.

5 If the Secretary immediately suspends the license of a
6 licensee for his or her failure to submit to a mental or
7 physical examination when directed, a hearing must be convened
8 by the Department within 15 days after the suspension and
9 completed without appreciable delay.

10 If the Secretary otherwise suspends a license pursuant to
11 the results of the licensee's mental or physical examination, a
12 hearing must be convened by the Department within 15 days after
13 the suspension and completed without appreciable delay. The
14 Department shall have the authority to review the licensee's
15 record of treatment and counseling regarding the relevant
16 impairment or impairments to the extent permitted by applicable
17 federal statutes and regulations safeguarding the
18 confidentiality of medical records.

19 Any licensee suspended under this subsection (b) shall be
20 afforded an opportunity to demonstrate to the Department that
21 he or she can resume practice in compliance with the acceptable
22 and prevailing standards under the provisions of his or her
23 license.

24 (c) The Department shall deny a license or renewal
25 authorized by this Act to a person who has defaulted on an
26 educational loan or scholarship provided or guaranteed by the

1 Illinois Student Assistance Commission or any governmental
2 agency of this State in accordance with subdivision (a) (5) of
3 Section 15 of the Department of Professional Regulation Law of
4 the Civil Administrative Code of Illinois (20 ILCS
5 2105/2105-15).

6 (d) In cases where the Department of Healthcare and Family
7 Services (formerly the Department of Public Aid) has previously
8 determined that a licensee or a potential licensee is more than
9 30 days delinquent in the payment of child support and has
10 subsequently certified the delinquency to the Department, the
11 Department may refuse to issue or renew or may revoke or
12 suspend that person's license or may take other disciplinary
13 action against that person based solely upon the certification
14 of delinquency made by the Department of Healthcare and Family
15 Services in accordance with subdivision (a) (5) of Section 15 of
16 the Department of Professional Regulation Law of the Civil
17 Administrative Code of Illinois (20 ILCS 2105/2105-15).

18 Section 80. Investigation; notice of hearing. The
19 Department may investigate the actions or qualifications of any
20 applicant or person holding or claiming to hold a license. The
21 Department shall, before suspending or revoking, placing on
22 probation, reprimanding, or taking any other disciplinary
23 action under Section 75 of this Act, at least 30 days before
24 the date set for the hearing, notify the applicant or licensee
25 in writing of the nature of the charges and that a hearing will

1 be held on the date designated. The written notice may be
2 served by personal delivery or certified mail to the applicant
3 or licensee at the address of his or her last notification to
4 the Department. The Department shall direct the applicant or
5 licensee to file a written answer with the Department, under
6 oath, within 20 days after the service of the notice, and
7 inform the person that if he or she fails to file an answer,
8 his or her certificate may be revoked, suspended, placed on
9 probation, reprimanded, or the Department may take any other
10 additional disciplinary action, including the issuance of
11 fines not to exceed \$1,000 for each violation, as the
12 Department may consider necessary, without a hearing. At the
13 time and place fixed in the notice, the Department shall
14 proceed to hear the charges and the parties or their counsel.
15 All parties shall be afforded an opportunity to present any
16 statements, testimony, evidence, and arguments as may be
17 pertinent to the charges or to their defense. The Department
18 may continue the hearing from time to time.

19 Section 120. Restoration of suspended or revoked license.
20 At any time after the suspension or revocation of any license,
21 the Department may restore it to the licensee, unless after an
22 investigation and hearing, the Department determines that
23 restoration is not in the public interest.

24 Section 125. Surrender of license. Upon the revocation or

1 suspension of any license, the licensee shall immediately
2 surrender his or her certificate to the Department. If the
3 licensee fails to do so, the Department has the right to seize
4 the certificate.

5 Section 130. Summary suspension of a license. The Secretary
6 may summarily suspend a license issued under this Act without a
7 hearing, simultaneously with the institution of proceedings
8 for a hearing provided for in this Act, if the Secretary finds
9 that evidence in the possession of the Secretary indicates that
10 the continuation in practice by the licensee would constitute
11 an imminent danger to the public. In the event that the
12 Secretary temporarily suspends the license of an individual
13 without a hearing, a hearing must be held within 30 days after
14 such suspension has occurred.

15 Section 135. Administrative Review Law; venue.

16 (a) All final administrative decisions of the Department
17 are subject to judicial review under the Administrative Review
18 Law and its rules. The term "administrative decision" is
19 defined as in Section 3-101 of the Code of Civil Procedure.

20 (b) Proceedings for judicial review shall be commenced in
21 the circuit court of the county in which the party applying for
22 review resides, but if the party is not a resident of this
23 State, the venue shall be in Sangamon County.

1 Section 140. Certification of record; costs. The
2 Department shall not be required to certify any record to the
3 court or file an answer in court or to otherwise appear in any
4 court in a judicial review proceeding, unless there is filed in
5 the court with the complaint a receipt from the Department
6 acknowledging payment of the costs of furnishing and certifying
7 the record. Failure on the part of the plaintiff to file such
8 receipt in court shall be grounds for dismissal of the action.

9 Section 145. Administrative Procedure Act. The Illinois
10 Administrative Procedure Act is hereby expressly adopted and
11 incorporated herein as if all of the provisions of that Act
12 were included in this Act, except that the provision of
13 subsection (d) of Section 10-65 of the Illinois Administrative
14 Procedure Act that provides that at hearings the licensee has
15 the right to show compliance with all lawful requirements for
16 retention, continuation, or renewal of the certificate is
17 specifically excluded. For the purposes of this Act, the notice
18 required under Section 10-25 of the Illinois Administrative
19 Procedure Act is deemed sufficient when mailed to the last
20 known address of a party.

21 Section 150. Home rule. A unit of local government,
22 including a home rule unit, may not regulate the practice of
23 foreclosed home receivers in a manner inconsistent with this
24 Act. This Section is a limitation under subsection (i) of

1 Section 6 of Article VII of the Illinois Constitution on the
2 concurrent exercise by home rule units of powers and functions
3 exercised by the State.

4 Section 900. The Regulatory Sunset Act is amended by
5 renumbering and changing Section 8.31 as follows:

6 (5 ILCS 80/4.31)

7 Sec. 4.31 ~~8.31~~. Acts repealed on January 1, 2021. The
8 following Acts are repealed on January 1, 2021:

9 The Crematory Regulation Act.

10 The Cemetery Oversight Act.

11 The Foreclosed Home Receiver License Act.

12 (Source: P.A. 96-863, eff. 3-1-10; revised 1-24-10.)

13 Section 920. The Code of Civil Procedure is amended by
14 changing Section 15-1702 as follows:

15 (735 ILCS 5/15-1702) (from Ch. 110, par. 15-1702)

16 Sec. 15-1702. Specific Rules of Possession. (a)
17 Mortgagee's Rights. No mortgagee shall be required to take
18 possession of the mortgaged real estate, whether upon
19 application made by any other party or otherwise. Whenever a
20 mortgagee entitled to possession so requests, the court shall
21 appoint a receiver. The failure of a mortgagee to request
22 possession or appointment of a receiver shall not preclude a

1 mortgagee otherwise entitled to possession from making such a
2 request at any future time. The appointment of a receiver shall
3 not preclude a mortgagee from thereafter seeking to exercise
4 such mortgagee's right to be placed in possession.

5 (b) Designation of Receivers. Whenever a receiver is to be
6 appointed, the mortgagee shall be entitled to designate the
7 receiver. If the mortgagee is a bank or trust, then the
8 mortgagee may only designate a foreclosed home receiver that is
9 licensed under the Foreclosed Home Receiver License Act. If the
10 mortgagor or any other party to the foreclosure objects to any
11 such designation or designations and shows good cause, or the
12 court disapproves the designee, then the mortgagee in such
13 instance shall be entitled to make another designation.

14 (c) Rights of Mortgagee Having Priority. If a mortgagee
15 having priority objects to the proposed possession by a
16 subordinate mortgagee or by a receiver designated by the
17 subordinate mortgagee, upon entry of a finding in accordance
18 with subsection (d) of Section 15-1702 the court shall instead
19 place that objecting mortgagee in possession or, if a receiver
20 is to be designated in accordance with subsection (b) of
21 Section 15-1702, allow the designation of the receiver to be
22 made by that objecting mortgagee.

23 (d) Removal of Mortgagee in Possession. A mortgagee placed
24 in possession shall not be removed from possession, and no
25 receiver or other mortgagee shall be placed in possession
26 except upon (i) the mortgagee's misconduct, death, legal

1 disability or other inability to act, (ii) appointment of a
2 receiver in accordance with subsection (a) of Section 15-1704
3 or (iii) a showing of good cause by a mortgagee having
4 priority. A receiver shall not be removed solely on account of
5 being designated by a mortgagee later determined not to have
6 priority.

7 (e) Determination of Priority. If the court is required to
8 determine priority for the purposes of subsection (c) of
9 Section 15-1702, a new determination shall be made each time a
10 mortgagee is to be placed in possession or a receiver is to be
11 appointed and shall be an interim determination which shall not
12 preclude the court from making a contrary determination later
13 in the foreclosure. If the court subsequently shall make such a
14 contrary determination, a mortgagee in possession or acting
15 receiver shall not be removed except in accordance with Part 17
16 of this Article.

17 (f) Rights to Crops. With respect to any crops growing or
18 to be grown on the mortgaged real estate, the rights of a
19 holder of any obligation secured by a collateral assignment of
20 beneficial interest in a land trust, the rights of a mortgagee
21 in possession, or the rights of a receiver, including rights by
22 virtue of an equitable lien, shall be subject to a security
23 interest properly perfected pursuant to Article 9 of the
24 Uniform Commercial Code, where the holder of a collateral
25 assignment, mortgagee in possession, or receiver becomes
26 entitled to crops by obtaining possession on or after the

1 effective date of this Amendatory Act of 1988.

2 (Source: P.A. 85-1427.)

3 Section 999. Effective date. This Act takes effect upon
4 becoming law.".